

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SIMPLY THICK, LLC,)
)
Plaintiff,)
)
v.) No. 4:13-CV-1036 CAS
)
THERMO PAC, LLC, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion for leave to file an amended complaint.

Plaintiff seeks to file an amended complaint pursuant to the Court's order dated August 29, 2013 to allege the citizenship of each member of each limited liability company for purposes of diversity jurisdiction. Additionally, plaintiff seeks to add additional factual information in response to defendant H.J. Heinz Company's motion to dismiss. For the reasons stated in its motion, plaintiff's motion for leave to amend the complaint will be granted.

"It is well-established that an amended complaint supercedes an original complaint and renders the original complaint without legal effect." In re Atlas Van Lines, Inc., 209 F.3d 1064, 1067 (8th Cir. 2000); see In Home Health, Inc. v. Prudential Ins. Co. of America, 101 F.3d 600, 603 (8th Cir. 1996). As a result, the original complaint no longer performs any function in the case. See 6 Charles Alan Wright, et al., Federal Practice and Procedure § 1746 (2d ed. 2008). Consequently, defendant H.J. Heinz Company's motion to dismiss (Doc. 19) is rendered moot. Also, defendant Thermo Pac, LLC's answer, affirmative defenses, counterclaim and cross-claim against H.J. Heinz Company (Doc. 24) and defendant Ameriqual Group, LLC's answer, affirmative defenses, and cross-claim against H.J. Heinz Company (Doc. 25) are rendered moot. Finally, plaintiff's motion to dismiss the counterclaims (Doc. 32) is rendered moot.

Defendants shall file responses to plaintiff's amended complaint within fourteen (14) days of the date of this Memorandum and Order, unless an extension is granted.

Accordingly,

IT IS HEREBY ORDERED that the stay entered in this case on August 29, 2013 is lifted.

IT IS FURTHER ORDERED that plaintiff's motion for leave to file an amended complaint is **GRANTED**. [Doc. 31] The Clerk of Court shall detach and docket the first amended complaint, which was submitted as an attachment to the motion for leave.

IT IS FURTHER ORDERED that defendant H.J. Heinz Company's motion to dismiss is **DENIED as moot**. [Doc. 19]

IT IS FURTHER ORDERED that plaintiff's motion to dismiss the counterclaims is **DENIED as moot**. [Doc. 32]

IT IS FURTHER ORDERED that defendants shall file their responses to plaintiff's first amended complaint within fourteen (14) days of the date of this Memorandum and Order.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 2nd day of October, 2013.